



January 27, 2006

SENATE BILL No. 35

DIGEST OF SB 35 (Updated January 25, 2006 8:19 pm - DI 106)

Citations Affected: IC 36-7; noncode.

Synopsis: Provides that certain zoning ordinance changes adopted without the written consent of the affected property owner that: (1) materially alter the development standards applicable to affected property; or (2) prohibit a use previously permitted on affected property are not effective until 18 months after the adoption of the ordinance. Effective upon passage.

Effective: Upon passage.

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January 9, 2006, read first time and referred to Committee on Rules and Legislative Procedure.

January 19, 2006, amended; reassigned to Committee on Judiciary.

January 26, 2006, amended, reported favorably — Do Pass.

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SB 35—LS 6089/DI 13+



January 27, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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SENATE BILL No. 35

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-7-4-610 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 610. (a) After
3 adoption of a zoning ordinance under section 606 of this chapter, the
4 plan commission shall publish a notice of adoption in accordance with
5 IC 5-3-1. The notice of adoption (which the plan commission shall
6 have prepared) must:
7 (1) summarize the subject matter of the ordinance;
8 (2) give the date of adoption;
9 (3) specify the places or areas that would be directly affected by
10 the ordinance (this subdivision does not require the identification
11 of any real property by metes and bounds);
12 (4) specify the penalty or forfeiture prescribed for a violation of
13 the ordinance; and
14 (5) give two (2) locations open to the public where the entire text
15 of the ordinance is available for inspection.
16 (b) After adoption of a zoning ordinance under section 606 or 607
17 of this chapter, the plan commission shall print the text of the

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ordinance in book or pamphlet form (or arrange for the inclusion of the zoning ordinance in the code of ordinances printed by the unit under IC 36-1-5), and no other printing or publication of any zoning ordinance is required. Printing of the text of a zoning ordinance in compliance with this subsection constitutes presumptive evidence:

(1) of the text of the ordinance that is contained in the code of ordinances, book, or pamphlet (and supplement, if any);

(2) of the date of adoption of the ordinance, and of any amendment to the ordinance that is contained in the code of ordinances, book, or pamphlet (and supplement, if any); and

(3) that the ordinance, along with any amendment to the ordinance that is contained in the code of ordinances, book, or pamphlet (and supplement, if any), has been properly signed, attested, and recorded.

(c) Zone maps incorporated by reference into the zoning ordinance are not required to be printed in the code of ordinances, book, or pamphlet printed under this section, but the plan commission shall keep them available at its office for public inspection.

(d) Unless a zoning ordinance provides for a later effective date, the ordinance takes effect when it is adopted under section 606, 607, or 608 of this chapter, subject to ~~subsection (e)~~: **subsections (e) and (h).**

(e) When a provision prescribing a penalty or forfeiture for a violation is printed under this section, it may not take effect until fourteen (14) days after the later of the following:

(1) The final day on which notice of its adoption is published under subsection (a).

(2) The day on which it is filed in the clerk's office under subsection (f).

(f) A zoning ordinance is not required to be included in the code of ordinances printed by a unit under IC 36-1-5. However, if the zoning ordinance is not included in that code, then two (2) copies of the book or pamphlet (and supplement, if any) printed under this section shall be filed in the office of the clerk of each participating legislative body, and these copies shall be kept on file in that office for public inspection.

(g) If the zoning ordinance is not included in the code of ordinances, the clerk shall keep additional copies of the book or pamphlet (and supplement, if any) in the office for the purpose of sale or distribution. However, if the zoning ordinance is included in the code of ordinances, copies of the zoning ordinance shall also be made available to the public in accordance with IC 5-14-3.

(h) A zoning ordinance that is adopted under section 607 or 608 of this chapter without the written consent of an affected property

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1 owner that has the effect of materially altering the development
2 standards applicable to the affected property owner's property or
3 prohibiting a use previously permitted on the affected property
4 owner's property is not effective or binding on the affected
5 property owner or the affected property owner's property until
6 eighteen (18) months after the date of adoption of the zoning
7 ordinance.

8 SECTION 2. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 35 and that Senator Long be substituted therefor.

GARTON

 COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 35, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 35 as introduced.)

GARTON, Chairperson

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 35, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 41, delete "606,".

Page 2, line 41, after "607" delete ",".

Page 3, line 6, delete "the earlier of:".

Page 3, line 7, delete "(1)".

Page 3, run in lines 6 through 7.

Page 3, line 7, delete "three (3) years" and insert "**eighteen (18) months**".

Page 3, line 7, delete "such" and insert "**the**".

Page 3, line 8, delete "; or" and insert ".".

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Page 3, delete lines 9 through 10.

and when so amended that said bill do pass.

(Reference is to SB 35 as printed January 20, 2006.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 1.

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